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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,641	12/22/1999	TSUYONOBU HATAZAWA	P99.2641	2680

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EXAMINER

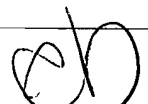
DOVE, TRACY MAE

ART UNIT PAPER NUMBER

1745

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/446,641	Applicant(s) HATAZAWA ET AL.	
	Examiner Tracy Dove	Art Unit 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 10,13-17 and 20-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10,13-17 and 20-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

This Office Action is in response to the communication filed on 2/23/04. Applicant's arguments have been considered, but are not persuasive. Claims 10, 13-17 and 20-28 are pending. This Action is made FINAL, as necessitated by amendment.

#### ***Claim Objections***

Claim 13 is objected to because of the following informalities: the claim recites improper group language. Examiner suggests "one of a polyvinylidene fluoride or a polyvinylidene fluoride/hexafluoropropylene copolymer". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 20, 21, 27 and 28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 20 and 27 recite a solid electrolyte comprising a fluorocarbon polymer having a weight average molecular weight of greater than 550,000 and a fluorocarbon polymer having a weight average molecular weight of 1,000,000 or more, which is not supported by the specification as filed. Claims 21 and 28 recite a solid electrolyte comprising a fluorocarbon polymer having a weight average molecular weight of greater than 550,000 and a

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fluorocarbon polymer having a weight average molecular weight of between 1,000,000 and 3,000,000, which is not supported by the specification as filed. See page 8 of the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 13, 20, 21, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites "wherein the fluorocarbon polymer is polyvinylidene or polyvinylidene/hexafluoropropylene copolymer", which is indefinite because it is unclear which "fluorocarbon polymer" of claim 10 is being further limited.

Claims 20, 21, 27 and 28 are indefinite because it is unclear if the limitations recited by the claims are meant to further limit the fluorocarbon polymer having a weight average molecular weight of greater than 550,000 or if the claims recite a third fluorocarbon polymer contained in the electrolyte.

To the extent the claims are understood in view of the rejections above, note the following prior art rejections.

#### ***Claims Analysis***

Note the specification states the plasticizer or solvent may comprise an ester, ether or carbonate and the solvent is removed to solidify the electrolyte (page 8, lines 5-9 and page 11, lines 19-21). Thus, a plasticizer is interpreted as any ester, ether or carbonate compound. Thus, a solvent is interpreted as any ester, ether or carbonate compound.

#### ***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22 and 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Yasugata, JP 08-236095.

Yasugata teaches a lithium battery comprising a separator (solid electrolyte) located between a positive electrode and a negative electrode. The separator comprises polyvinylidene fluoride (fluorocarbon polymer) having a weight average molecular weight of 50,000-2,000,000, preferably 100,000 to 1,000,000. An electrolytic solution impregnates the separator and electrodes (0001, 0003 and 0006-0007).

Thus the claims are anticipated.

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Claims 10, 13-17 and 20-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Gao et al., US 5,756,230.

Gao teaches a method of improving the structural integrity of an electrode binder and a polymeric matrix component of an electrochemical cell by employing polymer blends comprising fluoropolymers. See abstract. With the inventive fluoropolymer blends of Gao, the polymer binders of the anode and cathode and the polymeric layer of the electrolyte (solid) do not become brittle and crack under stress. See col. 2, lines 1-38. The fluoropolymer blends are

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described in col. 4, lines 19-67. *The individual polymers of the blend* may be homopolymers having a molecular weight in the range of 50,000 to 900,000, copolymers having a molecular weight in the range of 10,000 to 900,000 or terpolymers having a molecular weight in the range of 10,000 to 900,000. Note polytetrafluoroethylene and polyvinyl fluorides are preferred homopolymers and polyvinylidene fluoride-hexafluoropropylene is a preferred copolymer. For blends comprising a homopolymer and a copolymer, the relative weight percentage of the homopolymer preferably ranges from about 90% to 50%. See col. 5, lines 5-23. Gao teaches placing an electrolyte solution comprising an electrolyte solvent and a salt into said anode, cathode and polymeric compositions (col. 2, lines 9-23) (impregnates a face of the positive and negative electrodes). The cathode may comprise a lithium transition metal oxide and the anode may comprise carbon (col. 5, lines 59-65). Lithium ion cells are rechargeable. Lamination causes the polymeric components of the anode and cathode precursors to adhere to the polymeric layer (Example 3). The electrochemical cell includes an electrolytic solvent such as an organic carbonate (col. 5, lines 36-67). Typical solvents include propylene carbonate and ethylene carbonate (plasticizer of instant invention, see page 17, lines 1-9 of specification). The polymeric matrix is mixed with dibutyl phthalate (ester) and the polymeric layer is formed such that the electrolyte solution (salt and solvent) fills the pores created by the extraction of the dibutyl phthalate (ester solvent of the instant invention). See col. 10, lines 28-48.

Gao teaches a fluoropolymer blend of a homopolymer having a typical molecular weight in the range of 50,000 to 900,000 and a copolymer having a typical molecular weight in the range of 10,000 to 900,000. Gao further teaches a polymer blend of a homopolymer having a typical molecular weight in the range of 50,000 to 900,000 and a terpolymer having a typical

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molecular weight in the range of 10,000 to 900,000. See col. 4, lines 44-65 and col. 5, lines 6-23). Gao teaches preferably the polymers forming the fluoropolymer blend have a high average molecular weight.

Thus the claims are anticipated.

Claims 10, 13-17 and 22-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Humphrey et al., EP 0730316.

Humphrey teaches an electrochemical cell having a positive electrode, an absorber-separator sometimes referred to as a solid electrolyte, and a negative electrode. At least one of the electrodes or the separator comprises a porous polyvinylidene fluoride (PVDF), the PVDF electrodes having an electrode material combined therewith and the PVDF separator having an electrolyte material combined therewith (4:13-18). The PVDF polymer may include either a homopolymer or a copolymer, wherein the copolymers are either heterogeneous or homogeneous copolymers of vinylidene fluoride and hexafluoropropylene. The co-monomer is present from about 7 to about 25 wt%. The use of homogeneous copolymers for the manufacture of the electrode and electrolyte matrices is especially preferred (4:32-39). Polymers that may be used are shown in Table III. The table shows various grades of KYNAR<sup>TM</sup> (tradename for PVDF and are commercially available) ranging in weight average molecular weights of 33,500 to 572,500. KYNAR<sup>TM</sup> 460 (572,000) and KYNAR<sup>TM</sup> 460 Black (373,500) are included in Table III. Table IV also describes the combination of medium and high molecular weight grades to provide a PVDF homopolymer. The positive electrode includes LiMn2O4 and the negative electrode

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includes petroleum coke (carbonaceous material) (13:42-48). The negative electrode material may be graphite (14:16-19).

Thus the claims are anticipated.

***Response to Arguments***

Applicant's arguments filed 2/23/04 have been fully considered but they are not persuasive.

The 35 U.S.C. 112, 2<sup>nd</sup>, rejection of claim 13 is maintained. Applicant has not indicated which fluorocarbon polymer of claim 10 is being further limited.

Applicant indicates disagreement with the claim analysis regarding a plasticizer or solvent. However, Applicant did not provide any reasons why the claim analysis was improper.

The double patenting rejection has been withdrawn due to the filing of a proper terminal disclaimer.

The 35 U.S.C. 103(a) rejection is withdrawn. Applicant has amended the claims such that Gao anticipates the claimed invention. Applicant argues Gao does not teach or even suggest a solid electrolyte secondary battery comprising a solid electrolyte including a fluorocarbon polymer having a weight average molecular weight of greater than 550,000. However, Gao teaches a solid electrolyte secondary battery comprising a solid electrolyte including a fluorocarbon polymer having a weight average molecular weight of 50,000-900,000. Gao is not limited to any specific embodiment or preferred teachings.

The declaration under 37 CFR 1.132 filed 2/23/04 is insufficient to overcome the rejection of claims 10 and 13-17 based upon Gao (US5,756,230) as set forth in the last Office action because: unexpected results cannot be used to overcome an anticipation rejection.



***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tracy Dove whose telephone number is 571-272-1285. The examiner can normally be reached on Monday-Thursday (9:00-7:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 6, 2004

  
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